

28

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**Higher Education in Brazil:
The Stakeholders**

Simon Schwartzman

October 1998



The World Bank

Latin America and the Caribbean Regional Office

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**The World Bank
Latin America and the Caribbean Regional Office**

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Introduction

Higher education in Brazil is approaching a crossroads. The old model, a publicly funded system for the few, is centered on an elite and will not serve the country's needs in the 21st century. The Government of Brazil, with the World Bank's cooperation, is exploring a range of alternatives that address the most critical issues in Brazilian higher education:

- *Increasing Coverage:* A demographic bulge of young Brazilians is reaching university age. They will have more high school diplomas and higher educational aspirations than any previous generation. The current system provides education for less than 10 percent of the age cohort and is ill-equipped to meet the growing demands. To respond to this challenge, the higher education system will have to become more diverse, higher quality, and less expensive.
- *Restructuring Funding Mechanisms to Support Institutional Autonomy and Incentives for Efficiency.* Rigidities throughout the higher education system have institutionalized a system whose costs are on par with those of OECD countries but whose quality is not. A reexamination of funding and regulation mechanisms, and the incentives they create, is critical to improving quality and efficiency.
- *The Role of the Federal Government: Provider, Funder, and Regulator of Higher Education.* The last major reform of higher education took place in 1968. Currently, federal support for higher education is channeled almost exclusively to federal universities (and overwhelmingly for salaries). Little consideration has been given to the appropriate roles of the federal government in a diversified higher education system.
- *Quality of Instruction.* Quality assurance system at the institutional and national levels are weak, rigid, and politicized. They do not encourage diversity or flexibility of the curriculum.
- *Stakeholders: The Political Realities of Change.* Many of the system problems are well known and widely discussed within Brazil. Opponents to change in the higher community come from the country's most capable and politically mobile/influential groups and are often fortified by strong legal (even constitutional) and bureaucratic protection. Any viable policy change must strategically deal with potentially strong and well-organized political opposition.

The eight papers in this series are a systematic examination of the problems and policy options for Brazilian education.

This paper, by renown Brazilian Sociologist Simon Schwartzman¹, offers a perspective on the political forces that shape or prevent change. It presents the spectrum of players: professors, legislators, students, university administrators, federal regulators, parents, unions, and others who make up the landscape in which change will take place. It

¹I am grateful to Cláudio de Moura Castro, Daniel Levy, Eunice Durham, Jacques Schwartzman, João Batista Araújo e Oliveira and Maria Helena Magalhães Castro for helpful comments, corrections and criticism.

is a valuable preface to any discussion of change within the Brazilian higher education system.

Donald Winkler

Lauritz Holm-Nielsen

The approach

The main dimensions, features, and problems of Brazilian higher education are well known, thanks to a significant volume of previous research condensed in the paper titled *Higher Education Sector Assessment* prepared for this conference: institutional diversification; some surprisingly good institutions, course programs, and research departments, and many others predictably bad; the size of the private system; problems of equity, quality and relevance; administrative and management issues; the questions of costs and efficiency in the use of public resources. More controversial, but also well known, are the proposals to solve these problems: change the institutional framework, change the way the course programs are organized, increase enrollment in the public sector, charge tuition, establish institutional systems of evaluation, increase (or decrease?) the regulatory power of the central government upon the private sector, and others.

It is not enough to know the facts and to suggest ideal solutions. It is also necessary to have the power to implement them. Brazil, like the United States, is a decentralized democracy, and the power of its national authorities to bring about changes is limited by legal restraints and the ability of organized groups and institutions to resist them. This is particularly true regarding higher education, where many actors belong to the intellectual elite and are highly articulated and vocal. Indeed, efforts to introduce major reforms in higher education systems in democratic societies often lead to failures, precisely for not taking into consideration the strength of the opposition.² It does not follow, however, that reforms implemented by authoritarian regimes are any better. Higher education institutions in democratic societies are usually better than those in authoritarian regimes. This is because academic institutions, to thrive, require an environment of freedom and individual initiative, which do not exist in authoritarian environments. Even the best conceived reforms could not possibly succeed if they are done by threatening and demoralizing the main participants of the reformed institutions. Academic institutions are not single-function organizations; and are not amenable to vertical, hierarchically imposed models and commands. The task of institutional reform in higher education is in large part a task of intellectual persuasion, which can only take place in open political systems. It would be naive, however, to imagine that well entrenched interest groups could simply be persuaded to approve changes that could be detrimental to them. Democracy is not only a matter of persuasion but also of alliances and disputes, and this applies also to higher education.

Questions of social and political power can be approached in different ways. A traditional and always part of the necessary approach is to look at the legal statutes and established institutions: who is entitled to do what? Another traditional approach is to try to find out who has prestige, resources, and connections; and assume that those at the top are also the power-holders.³ Political scientists often prefer to take specific issues, and see who in fact has participated in shaping specific policies.⁴ In this text we will try to combine the first

²See, for attempts at higher education reform in the early eighties, Cerych and Sabatier, 1986; Kitamura, 1985; Premfors, 1983; Lane, 1983; Levy, 1980; Schwartzman, 1988; Wittrock, 1984.

³This is the quasi-Marxist approach adopted by C. Wright Mills in his famous *The Power Elite*. (Mills, 1956)

⁴The classic reference is Robert Dahl, *Who Governs?* (Dahl, 1961)

and third approaches, looking at the existing legal frameworks and institutions from the perspective of specific issues being handled through them.

The most visible cleavages, or fault lines, in Brazilian higher education are between the public and the private sectors, as well as between the good quality, research oriented institutions and the low quality, teaching-only course programs. The usual tendency is to collapse the two, placing public free high quality institutions on one side and private and bad quality on the other. This correlation, however, is far from perfect, and obscures the need to deal with issues such as equity, diversity, access, financing, course contents, institutional formats, and the links between study and work, which would benefit from a less polarized perspective.

The conclusions we will reach are not surprising, but certainly worrisome. They can be stated very simply by saying that those who have more power to produce change, have more to gain in keeping the situation as it is; while those who could benefit more from change are those who can do less. This difference in strength is related to knowledge, information, and organization. Higher education reform should benefit persons who are unable to study in universities today, who can only go to second-rate institutions, or who would benefit from a more equitable use of public money. This broad public, however, knows very little about higher education, and does not get together to voice its interests, as opposed to those people who have developed their stakes in higher education as it is today and are afraid of changes that could threaten their existing or expected benefits. There are people in very significant sectors in higher education institutions who would like to change the situation and open up new horizons, mostly those with stronger professional commitment with an academic agenda, but they could not possibly move ahead without strong outside links and support. A secondary but important conclusion is that many problems of higher education in Brazil are related to operational procedures and practices, the ways these institutions are run and linked to public authorities, and the broader context of Brazilian public administration and social policies. This broader context, however, is either taken for granted or ignored, and seldom questioned.

The National Council of Education and the expansion of the private sector

The principles, norms, and rules that shape Brazilian higher education are emboldened in the country's 1968 higher legislation law (Federal Law 5540/68), the 1988 Constitution, the 1996 national education law (*Lei de Diretrizes e Bases*), decrees and regulations issued by the federal administration and in the opinions (*pareceres*), and resolutions of the National Council of Education, created in 1995 replacing the older (and similar) Federal Council of Education.

Brazil's first universities are from the mid-1930's, being preceded by a set of separated professional *faculties* in law, medicine, engineering, dentistry and pharmacy, dating from the earlier 19th century. A Federal Ministry of Education (and Health) was established in 1931,⁵ followed by legislation creating the first universities and the National Council of

⁵For the educational reforms of the 1930's under strong influence of the Catholic Church, see Schwartzman, Bomeny and Costa, 1984.

Education (*Conselho Nacional de Educação*) integrated by independent citizens appointed for prolonged, fixed terms by the President to care about the contents and orientation of educational matters at all levels. In the mid-forties the old Council changed its name from *National* to *Federal*, and returned to the previous name in 1995, with the Fernando Henrique Cardoso government.

The rationale behind this council, which has survived for more than sixty years, has been that the administration is not reliable or competent enough to take care of educational matters beyond simple routine matters or political expediency. In the thirties, the most influential members of the council represented the views and interests of the traditional professions, the Catholic Church, and the military. After the War, representatives from private institutions and the professions, mostly law and medicine, and more recently former rectors and high civil servants from the federal education system were included. The Council functions as a bureaucratic and quasi-judiciary body deciding and setting jurisprudence from specific requests by higher education institutions, the Ministry, or from issues generated by its own initiative.⁶ Most of the Council's work in the area of higher education has dealt with authorizations for the creation of new institutions and course programs, and in setting rules about curricula, the validity of diplomas, and so forth.

In practice, the Council has worked mostly as a regulatory body for the private sector, since it has had no influence in the creation of institutions by the Federal Government or the states, which depend on specific legislation. In its task to regulate the private sector, the Council has to accommodate pressures from: (i) the established professions, which are routinely against expansion of their careers; (ii) different sectors in private higher education, ranging from the Catholic and community-based institutions to the diploma mills, which press for leniency and less regulation; and (iii) representatives of public institutions, usually opposed to public subsidies to the private sector. In principle, decisions on the creation of new course programs and the expansion of offerings should be based on the quality of the institutions and some notion about the social need (*demanda social*) for specific careers. However, the Council never had an organized and systematic mechanism to evaluate new or existing institutions, and was unable to make sure that the minimum requirements for the establishment of new course programs were real and kept through time; thus, no serious effort was ever made (assuming that it would be possible) to define what this *social need* for professional diplomas could be.⁷ In the past, the Council alternated into being a facilitator or an obstacle to the expansion of private higher education. Between 1968 and 1976, when expansion peaked, the Council approved 73 percent of about 1,500 requests for new course programs. After 1977, the mood changed and until 1980 it approved only 10 percent of one thousand new requests.⁸ To escape from the Council's control, the private institutions pulled together into federations and universities, which, once approved, are free to set their own

⁶In the current arrangement, the Council is an advisory body to the Minister of Education. In the past, its independence regarding the executive power was always an issue of conflict and contention. See, for the first period, Miceli, 1968. The 1961 legislation, which defined its attributions until the recent changes, gave it the power to decide on the authorization and official recognition of higher education institutions in the private sector, among other functions (Bordignon, 1984).

⁷In recent years, this search for a definition of *social demand* seems to have been put aside.

⁸Data from Helena Maria Sant'Ana Sampaio, 1998, based on Bordignon, 1984.

rules and course programs. In 1996, about 50 percent of private enrollment was in some kind of university, against about 28 percent in 1968.⁹

The Council was abolished by the Federal government in 1995 under the suspicion of corruption¹⁰ and of having become too permissive in the creation of low quality, private universities, and was then replaced by a new National Council. The new Council is trying to develop more stringent standards and a mechanism for periodical reevaluation and renewal of the institutions' university status. It is not certain that it will succeed. One of its new members, a well-known intellectual close to the President, resigned in protest against the authorization of a new private university in São Paulo. The Council has also worked on questions related to distance learning, mechanisms for the evaluation and re-accreditation of institutions, changes in both the curricula of basic and secondary education to improve their relevance and flexibility, and more broadly in the implementation of the tenets of *the Lei de Diretrizes e Bases*.

On balance, it is possible to say that, except for a brief period in the late seventies, the Council has worked and still works as a rein to the expansion of private education in Brazil. The main justification for this stand has been a concern with a diffuse concept of quality, often associated with the worries of the traditional professions about the growing number of degree holders in those fields. For the health professions—medicine, dentistry and psychology—the creation of new course programs, even in universities, depends on the approval of a specific body, the National Council of Health (Presidential Decree 2306, August 19, 1997, article 16). The same happens with Law course programs, which have to be approved by the lawyers' corporation, *Ordem dos Advogados do Brasil*, which is concerned about the *inflation* of their labor market¹¹ (see box).

⁹Data from Brasil, MEC/INEP/SEEC, *Evolução das Estatísticas do Ensino Superior no Brasil, 1980-1996*.

¹⁰This suspicion was never demonstrated. The problem, however, is that given the Council's power to approve the creation of new institutions and course programs, private institutions often lobby the Council and its members for support, using different means of persuasion.

¹¹Which is, of course, a potential if not actual source of patronage, this time by the professional corporations.

The *Jornal de Brasília* of September 22, 1998, included the following note:

Inflação Jurídica

O Conselho Federal da Ordem dos Advogados do Brasil já não esconde a sua preocupação com o excessivo número de Faculdades de Direito existentes no país. Segundo dados da entidade, o Brasil possui hoje cerca de 300 cursos de Direito, enquanto os Estados Unidos, com quase o dobro de nossa população, tem 170. Atualmente temos cerca de 230 mil alunos matriculados em todo o país. Nos últimos três anos foram apreciados pelo Conselho Federal em torno de quinhentos pedidos de abertura de novos cursos. Deste total, foram aprovados apenas dezesseis. “A OAB não vai permitir a inflação de cursos jurídicos no país”, garante Reginaldo de Castro, presidente nacional da entidade.

(The comparison with the US fails to note that, in Brazil, there are no general education colleges, Law is a *first tier* or undergraduate degree, and only a fraction of those graduated in law become practicing professionals.)

Today the Council works in harmony with the Executive and the Ministry of Education, and accepts the notion that higher education institutions should not be limited to a narrow concept of what a university should be. But the emphasis seems to be on the implementation of the minimum legal requirements for professors with graduate education and full-time contracts in the private sector, a formal requirement that most private institutions cannot fulfill and is generating serious strains. These requirements apply only to universities not the non-university course programs, which exist mostly in the private sector. However, they are a serious cause of concern for private institutions which have sought and still seek university status to gain autonomy from the government's interference.

In 1985 the Presidential Commission for the Evaluation of Higher Education in Brazil proposed the extinction of the Federal Council of Education to be replaced by a Higher Education commission, whose main task would be the establishment of a permanent system for evaluation of higher education institutions and course programs without its current bureaucratic and quasi-judicial attributions. The main problem with the existing Council, then and now, is not that it favors or limits the expansion of private education, or even that it may have been open to some kind of corruption or patronage. It is the way it operates, as a bureaucratic entity, with little legitimacy, limiting the flexibility of institutions and not allowing for an appropriate system of academic standards to develop.

In a recent paper, Burton Clark has noted that “strategic management that focuses on the long-term strength and competence of a higher education system has to promote professional steering and market steering more than state steering.” And Clark added that “so-called strategic management needs to be reconnected to all the main means of institutions-building in higher education, including those that are remote to the touch of

formal planning and top-down influence.”¹² This is precisely the opposite of what the Council of Education has been doing throughout the years.¹³

The legal framework

The two main higher education laws in this century, from 1931 and 1968, were both issued by authoritarian governments. In 1931 the Ministry of Education of Getúlio Vargas and Francisco Campos, copied the legislation from Italy. Then they introduced the *Faculty of Philosophy, Sciences and Letters*, which was supposed to be the place where science and scholarship would be developed in universities side by side with the traditional professional schools. In practice, except at the University of São Paulo and some parts of the University of Rio de Janeiro (formerly *Universidade do Brasil*), the faculties of philosophy became a kind of teachers' college for secondary education. The 1968 legislation (Law 5,540/68) was proposed by the Executive and approved by a weakened Congress in a period of political repression against intellectuals and students by Brazil's military government, which was far from just an authoritarian legislation. Its main features were the creation of a second tier for graduate studies, the elimination of the traditional chair system, the creation of academic departments, and the notion of academic credits instead of serial course programs. In doing so, the 1968 legislation introduced several features of American higher education and, at least as an ideal, placed research and graduate education at the center of Brazilian higher education. Another important innovation of the 1968 legislation, with very important consequences, was the introduction of full-time employment for university academics, which barely existed until then.

The introduction of features of the American system in Brazilian higher education has been tried before in a few places (notably in Universidade de Minas Gerais and Universidade de Brasília, in the early sixties). This responded to the demands of a growing and vocal group of Brazilian scientists, many educated in France and in the US after the war, who were opposed to the way the traditional Brazilian universities were organized for its lack of research. These scientists gathered, in 1948, and formed the Brazilian Association for the Advancement of Science (Sociedade Brasileira para o Progresso da Ciência, SBPC) to defend the existing scientific institutions and press for the ideals of scientific and technological progress. Some of the most preeminent leaders in the scientific community were Communists or sympathizers. During the years of military government in Brazil (1964-1985), SBPC was a very strong and often lonely source of opposition and criticism to the authorities, with some of its leaders being forced into political exile. In spite of their deep distrust, the scientists could not oppose the principles of the 1968 reform nor the large investments in scientific and technological research and graduate education made by the Brazilian government in the

¹²Clark, 1997, p. 98.

¹³Eunice Durham, however, sees some redeeming value in the Council's current work, which she summarizes by saying that it plays a significant if narrow task of reducing the excesses of professional corporations and interest groups both in the evaluation of institutions and course programs and in the establishment of basic curricula orientations. She believes that the norms and procedures being developed by the Council are making higher education more flexible than in the past (personal comments).

1970's.¹⁴ For a large part of the student body, however, and among a new generation of less qualified academic and administrative staff, the idea remained that the 1968 reform was a reactionary, anti academic, and repressive act, orchestrated by the military in association with the Americans. One of its consequences was the expansion of private higher education at the expenses of the public sector.

In contrast with the higher education laws, both the Constitutional tenets and the general education laws that exist in Brazil were approved by Congress in periods of democracy but in very different circumstances. In the Brazilian tradition, whenever an authoritarian regime ends, representatives of the people are called to write a new Constitution which, by necessity, should limit the powers of the government and guarantee the rights of the citizens.¹⁵ Brazilian constitutions tend to be generous and inclusive filled with hopes and promises, and the 1988 Constitution was no different. It is a very extensive and detailed document, enshrining a large number of social rights and benefits the government is supposed to provide regardless of resources, and curtailing the government's power to manage its affairs. On higher education, articles 206 to 214 require, among other things, free public education in official institutions, democratic management of public education, a unified career for federal institutions, autonomy, and the *principle of indissolubility of teaching, research and extension work*.

These broad constitutional mandates, which can only be changed by a 2/3 majority in both Houses, had to be specified by a general education law¹⁶. Such broad laws take years to pass through Congress, and in the process they are likely to become more tuned to reality and more conservative. The first law of this kind, required by the 1946 Constitution, dragged for decades in the Brazilian Congress. It was then stalled by a dispute between laic and Catholic groups about the role of the state in providing public education, and was finally approved in the early sixties with a victory of sorts of the Church, with the statement that families, not the State, are the ones that have the main responsibility for the education of their children. The new law, approved in 1996, went through a very complex, lengthy discussion in Congress, with intense mobilization of professional associations, political parties, political movements, and interest groups. It was expected to follow the same line of the Constitution (see box), but was replaced at the very end by a much more flexible and concise text introduced in the Senate.

¹⁴On the Brazilian scientists and their political roles, see, among others, Schwartzman, 1991; Botelho, 1989 and 1990; Fernandes, 1987; Schwartzman and Botelho, 1997.

¹⁵This happened with the frustrated constitutional assemblies of 1823, when Brazil became independent; and of 1934, after the first years of the Vargas period; as well as with the Constitutions of 1889, the beginning of the Republican period; 1946, with democratization after the war; and 1988, at the end of the military regime.

¹⁶Called in Portuguese *Lei de Diretrizes e Bases da Educação Nacional*, which can be translated as law of basic orientations and principles of national education.

According to one description, “O Projeto de Lei de Diretrizes e Bases número 1258/88, em discussão na Câmara dos Deputados, originou-se de um projeto do deputado federal Octávio Elísio (PSDB/MG) que incorporava as discussões e debates que estavam ocorrendo na sociedade civil, especialmente os educadores, através de suas entidades representativas. Entre os meses de abril e junho de 1989, iniciou-se uma série de audiências públicas, em que foram ouvidos 40 representantes de entidades e dirigentes de órgãos ligados à Educação, além de debates, reuniões, seminários e consultas promovidos pela comunidade acadêmica nacional, gerando uma primeira versão do Substitutivo ao Projeto de Lei número 1258/88, apresentado pela relator da Comissão de Educação, Cultura e Desporto, deputado Jorge Hage (PSDN/BA), em agosto do mesmo ano, como proposta para discussão. O substitutivo recebeu 978 emendas de deputados, sendo acolhidas 447, além de várias sugestões de outros segmentos da comunidade educacional dos mais diversos pontos do país. Nessa segunda etapa de consultas, a Comissão optou por promover Simpósios Temáticos em que educadores, especialistas e pesquisadores debateram temas específicos e polêmicos relacionados com a nova LDB. Essas sugestões foram sintetizadas em uma segunda versão do substitutivo, apresentada ao final de 1989. Ao iniciar-se o ano legislativo de 1990, são apresentados pelos deputados cerca de 1000 destaques sobre as 531 emendas rejeitadas no ano anterior, ocorrendo um dos mais eficientes processos de negociação e construção coletiva de um projeto de lei que foi aprovado, por unanimidade, pelos membros da comissão, em junho do mesmo ano.”

Maria das Graças Medeiros Tavares, introduction to the archive of the “Lei de Diretrizes e Bases da Educação Nacional,” Universidade Federal do Rio de Janeiro, Centro de Filosofia e Ciências Humanas, Programa de Estudos e Documentação Educação e Sociedade (PROEDES), <http://www.cfch.ufrj.br/PROEDES/abertos/ldb>.

Known as *Lei Darcy Ribeiro*,¹⁷ the new education law included several innovations suggested by the Ministry of Education of Fernando Henrique Cardoso’s government, which would not be likely to appear in the original project. Institutions and course programs are to be evaluated periodically and may lose their accreditation. Universities are required to have at least one third of their staff on full-time contracts,¹⁸ and one third having at least a master’s degree. These requirements mean, in practice, that very few private institutions will be able to keep their university status in the long run, since most of their academic staff is part-time and very often only hold a professional degree. The law establishes, arguably against the letter of the Constitution, that universities should have special legislation (different, therefore, from

¹⁷A colorful doublé of intellectual and politician, Darcy Ribeiro had been the Rector of the Universidade de Brasília in 1991. The first attempt in Brazil to create a modern university centered on research and organized along departments and institutes, and not professional schools. Because of his identification with the Goulart government, ousted by the military in 1964, he was deposed from the university and went into exile. He returned in the eighties as vice-governor of Rio de Janeiro with Leonel Brizolla, a traditional foe of the military. He had, therefore, impeccable leftist credentials, but his understanding of educational matters, although controversial, were closer to the ideals of quality and efficiency than to those of the sheer defense of traditional practices and established interest groups.

¹⁸*Full-time* contracts in public universities do not mean necessarily full-time work, being often just a way of paying higher salaries. Many universities do not even have enough office space for their *full-time* staff, and there is now a legal distinction between *40 hours a week* and *exclusive dedication* contracts, which can mean different salaries but not necessarily different work loads.

the civil service as a whole), and that they are free to create their own career plans for their academic and administrative personnel.¹⁹

The federal administration: the Ministry of Education.

The Ministry of Education is the federal government's arm to implement its policies, but its reach is not as wide as it is often sought. Constitutionally, basic and secondary education is the responsibility of state and local governments. The federal government is restricted to the federal system of higher education and the supervision of private institutions, and the establishment of general rules and orientation for the other levels through the National Council of Education.²⁰

¹⁹Art. 54: "As universidades mantidas pelo Poder Público gozarão, na forma da lei, de estatuto jurídico especial para atender às peculiaridades de sua estrutura, organização e financiamento pelo Poder Público, assim como os seus planos de carreira e do regime jurídico do seu pessoal."

²⁰This is the practice, not the rule, since the Constitution does not say that the federal government is responsible for higher education, only that it is responsible for the federal education system. The constitutional text is as follows: (article 211, §1): "A União organizará e financiará o sistema federal de ensino e o dos Territórios, e prestará assistência técnica e financeira aos Estados, ao Distrito Federal e aos Municípios para o desenvolvimento de seus sistemas de ensino e o atendimento prioritário à escolaridade obrigatória." In practice, the Federal government has no direct interference with the daily workings of state and municipal higher education institutions, which are ruled by the states and their state councils of education.

The table below, prepared by former Education Minister José Goldemberg, provides a good picture of the Ministry's reach in terms of the resources it controls:

Brazil, Ministry of Education, Expenditures in 1990 (in US\$ millions)						
	Resources from the Federal Budget				Other resources (%)	Total (%)
	Personnel	Current expenditures (custeio)	Investments (Capital)	Total (%)		
Federal Higher Education Institutions	2,928	217	166	78.40		53.00
CAPEs	1	131		3.13		2.11
Federal Technical Schools	205	20	6	5.47		3.70
Other agencies	245	151	153	13.0		8.79
Fund for Assistance to Students (FAE)					30.43	9.86
National Fund for the Development of Education (FNDE)					23.72	7.68
<i>Salário Educação</i> (transferred to States)					45.85	14.86
Total (percentages)				100	100	100
Total (in US\$ millions)	3,379	519	325	4,223	2,204	6,427
Source: Taken from José Goldemberg, <i>Relatório sobre a Educação no Brasil</i> , 1993 Data from the Ministry of Education.						

This was the situation in 1990, and today it is not very different in relative terms.²¹ About 80 percent of the resources received by the Ministry of Education from the Federal budget (4.2 billion in 1990) went to its network of federal universities, mainly to pay for

²¹In absolute terms, however, the federal government is spending now about 6 billion dollars a year with its higher education institutions (compared to 6.2 to 5.7 billion between 1995 and 1998, in 1997 values), 27 percent of which going to retirement benefits, and about 65 percent to direct and indirect salaries.

salaries and retirement benefits of academic and administrative staff. Higher education is handled by two agencies within the Ministry. One is CAPES, an old acronym for an agency devised to increase the professional qualification of the higher education teaching staff, now in charge of the evaluation and support to graduate education mostly through the distribution of fellowships for graduate students. The other is the Secretary for Higher Education, SESU, which sometimes handles small amounts for distribution to the universities for special purposes.²² In periods of budgetary instability,²³ SESU is the focal point for rectors pleading for additional resources or authorizations to expend. The Ministry of Education has a say in the proposal of the yearly budget for the federal universities, but it has to work within the limits established by the planning and financing ministries. The Congress discusses and approves the budget for each institution, and the Ministry has no power to switch money from one university to another.

In short, the Ministry of Education is limited to a marginal use of the existing resources for higher education. It has more leeway on the management of resources coming from a tax paid by Brazil's firms. In 1990, these taxes were *salário educação* and *finsocial*.²⁴ According to the legislation, two thirds of this money, which in 1990 amounted to 2.2 billion dollars, had to be transferred back to state governments for expenses on basic education. The other third, about one billion dollars, could be spent with discretion by the Ministry of Education also on basic education, i.e., building schools, teacher training, book distribution, school meals, or improvised campaigns for one thing or another. Because of these resources, extremely useful for patronage politics in election years, the Ministry of Education was always coveted and usually given to politicians in the Government's alliance, who seldom had the improvement of the country's education system as their first priority. This situation started to change in the early nineties, with the nomination of José Goldemberg during the Collor period, and was maintained in Fernando Henrique Cardoso's government with Paulo Renato de Souza; the former a well-known physicist and former rector of the University of São Paulo, the latter a well-known economist and also former rector of the State University of Campinas. Today, it is difficult to imagine that the Ministry of Education could be occupied again by a politician, for the same reason that the Ministry of Economics has to be occupied by competent and reputable economists. Both Goldemberg, during his short and difficult tenure, and Paulo Renato de Souza strived to introduce rational criteria and eliminate political patronage in the distribution of public funds under their administration. By doing so, they

²²One of these programs was PAIUB, which provided resources for universities willing to implement systems of internal evaluation.

²³Which tend to be the norm, either because of inflation or because of the need to curtail expenditures to balance the budget.

²⁴The *finsocial* was abolished in 1991. The *salário educação* corresponds to 2.5 percent of the salaries paid by each firm in the country, which can either be used directly by educational projects within the firms, or have to be transferred to the federal government, which then transfers two thirds to state governments. The payment of this contribution is now being contested in the courts. According to a recent statement by Ministro Paulo Renato, published by *Folha de São Paulo* on September 11, 1998, there were 10,600 legal actions against this payment, and because of that the states were bound to receive less than R\$ 158 million from this fund. The court actions against *salário educação* started in 1996, and there are now about 200 to 300 new court actions per week, questioning its constitutionality and being granted exemption by lower courts.

contributed to reduce still further the discretionary power the Ministry has in the direct management of Brazil's education institutions and resources.²⁵

The judiciary

No policy to change and improve higher education could succeed without taking into account the possible interference of the courts. Brazilian courts are usually very slow to make decisions, but can be very quick in granting assumed rights to persons asking for their help in labor disputes. There is a separate system of labor courts, which have a tradition of granting benefits to employees against employers and, especially, the government. It is not necessary for a judge to examine the substance of a demand to make a decision. He can decide, *in limine*, that a person is suffering a material constraint, and issue an order to the employer to attend to the demand, while the substance awaits a final decision, which can take years. A very complicated system of appeals can go up to the Supreme Court, which cannot just work in the establishment of legal doctrine and jurisprudence, but has to decide whenever a case is legally brought to its attention. Once a decision is made by a higher court, it does not apply automatically to similar cases being handled by lower courts, until each specific case is brought to its attention. Because of this practice and because of the successive changes in currency and ways of calculating real wages in times of intense inflation, courts are flooded with requests from civil servants for corrections in their salaries. These are often approved retrospectively, leading to huge compensations the government is forced to pay regardless of the existence of the resources. One consequence of this situation is that salaries of civil servants, which should obey in principle to the rule of equal payment for equal activities, can be very different in practice depending on whether specific persons have succeeded in their legal complaints.²⁶ Another consequence is that the government is unable to control a substantial part of the growth of its expenditures on personnel. A third consequence is that administrative arrangements aimed to increase the administration's flexibility in hiring, paying, or laying off personnel are likely to be successfully challenged in court. Most of the judiciary interference with educational matters has to do with labor salaries and payments, but there is no reason why courts could not interfere in matters such as the way students are selected to enter universities or the criteria to grant diplomas. The Federal government, through the Advocacia Geral da União (the Federal Attorney's Office) has developed a very complex set of procedures to try to narrow the ability of individual judges in lower courts to make quick rulings that affect the country's general interest. However, this is an uphill and difficult battle.

²⁵For the same reason, they collided very strongly with some sectors in public universities. In contrast, Murílio Hingel, the Minister of Education in the Itamar Franco period, did not bother with evaluation or reform, and was very popular in the universities.

²⁶In 1998, the federal government was expected to pay 641 million dollars in *precatórios* to its employees in federal universities, 11 percent of its total expenditures with these institutions. These *precatórios* are court-ordered compensations for past salary differences, as defined by the courts.

The students

All these institutions, Councils, and legislation were developed, supposedly, with one purpose in mind: provide good education to students. But who are these students? What do they want? How do they express their desires and preferences? How much power do they have to make their interests and aspirations prevail?

Brazilian higher education is still very narrow—only about 6 percent of the population in the 18- to 24-age bracket is in higher education today.²⁷ For this reason, it is usually assumed that students are children that belong to the wealthiest and richest families. This is only part of the truth. In the seventies, when Brazilian higher education expanded very rapidly, the country was also going through a very intense process of social mobility. Therefore, a large percentage of the students entering higher education came from families with very low educational background struggling to make room in a new urban and modern space. The educational levels of students' parents in the richest regions tend to be higher than in the poorer states, but this is explained partly by the investments in education of the children of the immigrants who entered southern Brazil in large numbers at the turn of the century. Earlier, children of traditional families would enter the established professions, while children of upward mobile families would enter fields with stronger technical contents, natural sciences, or new fields such as social sciences. In the seventies, as the system expanded, the number of youngsters coming to higher education from poorly educated families increased, and the course programs they followed were often below standards in terms of quality and proficiency. Still, the benefits associated with a higher education degree in Brazil remained high in relative terms regarding salaries and employment opportunities, even if not always befit to the aspirations of ambitious and upward mobile youngsters. This is probably one of the explanations for the traditionally high levels of political mobilization of students, but can also help to explain their alienation regarding the values and traditions of academic culture. It is possible to say that, while in the past student activism was characterized by ideological mobilization, more recently it tended to be directed to very narrow demands—cheap restaurants, no fees, no testing—while most of the students prefer not to get involved. There are signs that a new kind of student activism, demanding good quality teaching and value for money in the private sector, is starting to appear, but it is still too narrow and limited to make any difference.²⁸

Half of the students in higher education in Brazil today are female, and a very large percentage are mature and already working. While most courses in public universities take place during the day, practically all courses in private institutions are taught in the evening, and most of the evening students have jobs. This picture is very different from thirty years ago, when students used to be young, male and fully supported by their parents. Women are now entering the traditional and most prestigious fields, like medicine and economics, but they still concentrate in some low prestige careers, such as nursing, social work, teaching and

²⁷The usual comparison, however, is between the total number of students and the population in the corresponding age bracket, which according to IBGE's National Household Survey (PNAD) gives 10 percent for 1996.

²⁸For an expanded discussion, see "Los Estudiantes y la Política," in Schwartzman, 1996, p. 115-119.

librarian sciences. Mature, working students flock to course programs on administration, law, economics, and accounting. These students are not likely to get involved in broader political movements and demonstrations, except when they are affected by growing costs or difficult academic demands, or when they feel insecure about their prospective careers.

The academic profession

The existence of a strong, professionally competent and independent academic community is usually considered a central component of a vital and creative higher education setting.²⁹ For good or bad, the fact is that the academic community is the strongest and more active interest group in the Brazilian higher education environment. Organized in a local and nationwide teachers' association,³⁰ they shut down most of the federal universities for several months in 1998. In a strike for higher salaries, during which the government was forced to give in, a strong opposition to the designation of the new rector of the Federal University of Rio de Janeiro was staged, creating an impasse which still lingers, and has had an enormous cost for the government in terms of public image and legitimacy.

Behind this appearance of strength and unity, the so-called *academic community* is fragmented in three or four very different groups.³¹ Until the 1968 there was no full-time employment nor research in Brazilian universities, with a few scattered exceptions. Most of the academics were members of the learned professions who also taught part-time at universities and faculties as an ill-paid but often prestigious second occupation. This pattern persists today in most faculties of law, engineering, medicine and dentistry. These university professors are not likely to get involved with strikes or to participate in collective movements of any kind, except those related specifically with their respective professions.

After the 1968 reforms, other groups started to grow. One was a selected group of highly trained academics, which went for their doctoral studies in the US and Europe, and returned to occupy the highest positions in the new departments, institutes, and research organizations created in the seventies. They are now the new "high clergy" of Brazilian higher education, in many ways similar to other academics in the US and Europe. Besides their regular salaries, they develop intense entrepreneurial activities on behalf of their scientific careers. They are then able to get resources and additional income from research supporting agencies and contractors in the country and abroad. They try to exert influence on academic and scientific matters through personal contacts and lobbying, rather than through collective action. It is possible to estimate their size in terms of the number of academics with doctoral degrees in Brazilian higher education: 24 thousand in 1996, 16 percent of the total, and strongly concentrated in the São Paulo region.³²

²⁹See, for a discussion, Schwartzman, 1994.

³⁰ ANDES, the Associação Nacional de Docentes de Nível Superior.

³¹Schwartzman and Balbachevsky, 1996; Balbachevsky, 1995.

³²These figures, taken from *Evolução das Estatísticas do Ensino Superior no Brasil 1980-1996*, organized by the Ministry of Education, refer to *funções docentes* or teaching posts. It is usual for someone working in a public university during the day to teach in a private institution in the evening, and in this case he would be counted twice.

The second group, which developed after the 1968 reform, was a growing army of less trained, full-time teachers and professors in the public system—the *low clergy*. In the early seventies, public universities started to hire full-time teachers to attend to the expansion of enrollment which was taking place, and to fill in the places created by the new departments, institutes, and introductory course programs (*ciclo básico*) which were part of the new academic model. In the past, academic life in the universities and faculties was organized around chair-holders (*catedráticos*), who had a strong say on who would be hired to help on their teaching tasks and eventually in running research programs and laboratories. After 1968, as the chair system disappeared, recruitment was done by the university's central administration. The assumption was, and still is, that entrance to university careers should take place only through formal exams and public competition (*concursos públicos*); however, in practice a large number of lectures were hired on a provisional basis, and were later granted job stability by the government.

To improve the quality of higher education, legislation was introduced requiring graduate degrees for promotion to higher ranks, in a time when graduate education in Brazil barely existed. The universities were stimulated to move rapidly to create graduate programs, and CAPES created a program to provide fellowships and support for university professors who wanted to spend a few years on leave to get their degrees. The requirements to create doctoral programs, however, were stiff (it was necessary to have a group of full-time Ph.D.'s to begin with), and the consequence was the proliferation of master and *specialization* course programs. Today, 60 percent of the country's teaching positions are filled with persons with master's or specialization degrees.³³ The survey on the academic profession in Brazil showed that this group is the core of the militant, politically motivated teachers' unions. We called this group *type III* in contrast with the *high clergy* called *type II*. The box below summarizes our findings and conclusions about the different types.

The remaining group, finally, is a nondescript mixture of part-time teachers working mostly in private institutions. In one extreme, they can be a well-qualified group of established professionals and active or retired professors from the public sector who teach by the hour in the evenings in private institutions. At the other extreme, they can be persons with little qualification or too young to have gotten a position in a public university when it was easier and necessary to teach in different places many hours a week to make ends meet. They have no career perspectives, no long-term contracts with their employers, no common identity, and very little bargaining power. If we assume that most of the academic staff in the private sector is like that, they add to about 75 thousand teaching positions (half of the total in the country) in charge of about two thirds of the country's undergraduate students.

³³*Specialization*, in Brazil, is defined as a post-graduate program of any kind lasting for about a year and provided by any recognized institution. Master degrees, on the other hand, are like simplified doctorates, often lasting several years, requiring a dissertation at the end, and supervised by the Ministry of Education. This means that, often, specialization courses work as diploma mills providing credentials for higher education lecturers looking for promotion.

Type III is a professor, very often a woman in the humanities and education, who got a stable and full-time job in a public institution, but did not have the conditions or the opportunity to reach the standards of professional achievement of type II. Even when her values are similar to those of group II, her practice is different. Her professional identity is not given by her undergraduate degree, as in the traditional professions, nor by her individual achievements as an independent scholar and researcher, as in type II. Instead, it is given to the appurtenance to an institution and a group with whom she shares daily problems, achievements, and routines of academic life. It is in this group of professors where one could find some of the central dilemmas that are common to all processes of professionalization: the tensions between the ideals of the collectivist trade unions and the individualistic liberal professions, the opposition between the values of personal achievement and those of the professional community, and consequently the spaces that are open or closed for intellectual growth, the development of competence, and the strengthening of social responsibilities.

(Schwartzman and Balbachevsky, 1996, p. 270-271)

Academic institutions and networks: the public and the private

Another consequence of the 1968 reform was the strengthening of the rectors' offices and the administrative bureaucracy in public universities. Before the reform, the universities were in practice an association of independent professional schools; and the role of the rector was mostly symbolic. The reform created the need for complex, centralized structures, a need which was intensified by an ambitious program, supported by the InterAmerican Development Bank, to build unified campi for federal universities throughout the country. Following the general trend, the universities' non academic employees gathered in unions and joined the teachers' unions and their campaigns for salaries and other benefits.

University rectors in federal institutions are nominated for a fixed mandate by the President of the Republic from short lists produced by the university's academic Councils. This procedure seems sensible: the rectors are supposed to be persons with leadership and legitimacy in their institutions, and the government has some influence in choosing someone who should represent not only the interests and views of his institution but of the broader society as well. However, this process of nomination has led to periodical confrontation between government and universities, and is at the root of the recent crisis at the Federal University in Rio de Janeiro. These issues are, first, how universities produce the list and, second, how the government picks the person to be nominated. The demand from the teachers', employees', and student unions and associations is that nominations should be made through open, one-man-one-vote elections, with only the first name being presented to the government for appointment. With the end of the military regime in 1985, this procedure, with some variations, became widespread with the understanding that this was the democratic way to go and that the government was not willing to confront universities in this highly politicized process. Through this mechanism, rectors, formal representatives of the government and taxpayers in the administration of the universities, became the main lobbyists for the interests of the unions and associations in Congress and in the executive branch. In São Paulo's state universities the nomination process was kept under the control of the senior academic community. It is not surprising that this system was only resisted, from the federal

government's side, precisely by the two education ministers that came from São Paulo's universities: José Goldemberg and Paulo Renato de Souza. Current legislation requires a large majority of academics to participate in whatever process of nomination the universities choose to adopt. However, this new practice is still to be implemented, and the government has been refusing to nominate rectors whenever universities have not sent a proper list with three names to choose from.

Although this is an improvement, it still keeps the rector as a representative of the academic institution not of the government and society at large, curtailing his ability to implement unpopular reform policies. The rector's powers are also curtailed by a very complex system of a collegial decision-making process and elections in each faculty, department, or institute. This means that, in practice, rectors can only appoint their personal staff (often called *pro-rectors*, or vice-rectors for undergraduate, graduate education and research, and planning), but not the directors of departments or faculties. The replacement of the old chair system by collegial departments was meant to give more power to the new generation of well-trained academics and researchers entering the universities in the sixties. In most cases, however, it led to the watering down of academic hierarchy and the development of an extremely slow and inefficient decision-making process based on lengthy discussions and majority voting, often dominated by junior and less qualified staff and student representatives. In contrast with the US universities, Brazilian public institutions do not have an administrative staff with independent decision power, and lack any kind of external supervisory body such as a board of regents that could oversee their work.

The rectors in federal universities are organized as a national forum, the Associação Nacional de Instituições Federais de Ensino Superior (ANDIFES), and also belong to the nationwide Council's rectors, the Conselho de Reitores das Universidades Brasileiras (CRUB).

Private universities and institutions can be very different from each other. They have formed a complex web of associations, which includes CRUB, the Associação Brasileira de Mantenedoras do Ensino Superior (ABMES), the Associação das Universidades Particulares (ANUP), and the Associação Brasileira das Universidades Comunitárias (ABRUC).³⁴ It is typical of private institutions to have an owner (called supporting institution—*instituição mantenedora*) who has all the power to nominate or dismiss the rector and other administrative and academic personnel. Theoretically, these supporting institutions are all nonprofit; although, in practice, this may be just a way to avoid paying taxes, and to have access to student credit and other public benefits.³⁵ Religious and community-based institutions have argued for long that they are public institutions in terms of their objectives, and that they should be entitled to public support, which is forbidden today by the Constitution except for student credit or research. Their relationship with the federal government and public universities, tend to be tense and difficult. They resent the controls

³⁴For a detailed description and analysis, see Sampaio, 1998, Chapter 4, *Campo Político: Atores e Políticas*.

³⁵Two recent acts by the government, Decree 2.306 of August, 1997, and Medida Provisória 1.477-40, 1997, were aimed at identifying more clearly which institutions are in fact for profit, and which ones are truly not. The current legislation allows educational institutions to work openly as for-profit institutions, paying all the taxes, but it is not clear whether any one has taken up this possibility.

and limitations imposed upon them by the National Council of Education and the Ministry, as well as the requirements they have to fulfill in order to maintain their university status, especially regarding full-time employment, academic qualification for teachers, and academic autonomy of their departments and institutes vis-a-vis the maintaining institutions. In most cases, they do not want and do not have the material and intellectual resources to go beyond undergraduate teaching in the less technical fields.

Some private institutions are famous for being very aggressive in their lobbying tactics to approve legislation and to get their representatives nominated to the Council of Education. The Catholic universities, an important segment of the private sector, can make use of the persuasive powers of the Catholic Church if necessary. In general, however, it seems fair to say that the public sector still has the upper hand. The private sector is still perceived with mistrust by the government and in academic sectors, either because of its lack of standards or just because it is private. Because of this situation, many private institutions see with hope the introduction of evaluation mechanisms for undergraduate education, which could eventually prove their worth and increase their reputation and public recognition. Others, which work mostly as diploma mills providing educational credentials for the regulated professions and civil servants seeking promotion, are not very happy with this prospect.³⁶

³⁶The main existing mechanism for evaluation is the national exam required by the Ministry of Education to students completing their undergraduate courses. Then the government publishes the average rates obtained by each course program (the test is not used for the evaluation of the students themselves, although they are required to take it.) This exam (dubbed *the big test—prova*) was resisted at first, but then created a strong emulation among institutions, particularly in the private sector, to improve their marks. One of the main problems with this test, as an instrument for course program evaluation, is that it is biased in favor of public institutions, because it measures absolute scores, not relative (meaning that it may be strongly dependent on the students' background). In addition, the Ministry of Education combines it with data on the formal qualifications of the staff, which is obviously an input, not output dimension.

The professions

We have seen how the medical and legal professional associations work against the expansion of higher education in their fields, either because of a concern for quality or because of *diploma inflation*, which could threaten their earnings. Most of the learned professions in Brazil are regulated by law (medicine, dentistry, and law; as well as engineering, administration, economics, social work, biology, journalism, psychology, teaching, pharmaceuticals, accounting, library sciences, and many others). Each profession comprises complex local and national entities,³⁷ which are supposed to worry about the quality of their respective course programs to make sure that no one invades their market space, and professionals are paid according to the professions' expected standards. There are many good things to say about professional corporations. Setting technical and ethical standards guarantees that the public is not duped by quack professionals. However, the line between healthy self-regulation and the defense of corporate interests is often blurred. For some professions in Brazil, the market niche is well defined (courts can only be approached through lawyers, pharmacies need to have a pharmacist, building projects have to be signed by an engineer, firms should have an accountant, glass prescriptions are only given by ophthalmologists, a pedagogical degree is required to teach in secondary school). In public jobs, it is necessary to have an academic degree for access to the better jobs or promotion. Because of this situation, the organized professions are strongly opposed to the creation of middle-level course programs for technicians and specialists in their fields (such as optometrists and clinical nurses), as well as any proposal to deregulate the professions and let the market decide whom it wants to hire and at what price. This situation explains also the large number of cheap diploma mills, providing degrees at little cost without requiring much in terms of knowledge.³⁸

The end users: families, companies, government

It could be expected that the main stakeholders for higher education would be the families that send their children to school and support their study; the companies that need competent people for their activities; and the government, which foots the bill for the public sector and is one of the main employers of the better educated. One could also expect that trade unions and political parties would place the issues related to higher education in their agendas, demanding more access and complaining, for instance, against the subsidies to upper income groups implicit in the current system of free public higher education. In practice, however, one does not see these stakeholders show their faces, and even the federal government only shows concern with higher education through the designated ministry, or when there is a strike or bills get too high. This situation may be explained, in part, by the fact that these stakeholders are heterogeneous, not organized, removed, and with little knowledge of the issues of higher education.

³⁷These entities are public institutions. To work as, say, a statistician in Brazil, one must carry a card of the statisticians' association and pay them a yearly tax.

³⁸See Schwartzman, 1985, for a more detailed analysis.

But the main reason is probably the same that makes other institutional reforms in Brazil—in areas such as health, social security and labor—so difficult to achieve. Since the Second World War, Brazil has developed a very benevolent welfare state, in terms of its resources, which was limited to only part of its population. The segmentation and bureaucratization of the job market in terms of a myriad of professions and their diplomas was part of the same set of policies that supported the unions with a union tax, granted rights for maternity leaves required full-paid vacation and high severance benefits on layoffs assured that everyone was entitled to free medical care allowed for retirement at early ages and mandated that higher education in public institutions should be free. Today, the costs of most of these benefits are too high and their quality has deteriorated. Moreover, those who were left out of the system, who used to live far away in the countryside, live now in the hills and outskirts of the country's large cities. The demand by both those who suffer because of deteriorating services and smaller benefits and those who think they are about to get some of them, is not to change the existing benefits and protections, but to provide more of the same. In the professions, the opposition to flexibility, deregulation, and proper evaluation of course programs do not come from the leading institutions and the best paid careers, but precisely from those at the fringe who are afraid to lose the expected privileges and rights associated with their diplomas, conquered by whatever means they could master.

In higher education as in other areas of social policy, the perception of the need for reform comes from the government, which sees its empty chest: from the better trained and skilled segments of the workforce within and outside the universities that wants freedom and opportunity to show its worth, and the leadership in the public and private organizations which are concerned with efficiency and the proper use of their resources in a competitive environment. The most important beneficiaries of the reforms, of course, would be those who are completely shut out from the existing system of benefits and privileges, or those who can only aspire to some of its crumbs. But this is a long-term view, and it is unlikely that they will emerge as significant stakeholders in the defense of their own interests.

This is a pity, because Brazilian higher education needs to be reformed. Moreover, it is unlikely that this reform will come from the initiative of the most vocal and militant groups within the institutions, the professions, or the public bureaucracy. There are many among the academic staff, students and managers, and outside the universities, who are aware of the existing potentialities, feel uncomfortable about the current shortcomings, and would like to support an effort to make these institutions more competent, efficient, and equitable. It is necessary to increase the voice and presence of these internal and external stakeholders, and a crucial ingredient for that is knowledge and information. They should know what is happening with higher education in the country, which are the good and the bad institutions, who are the winners and the losers, and what are the possible alternatives to the present situation. They need to know each other and to become aware of their common frustrations. From a larger basis of awareness and concern, it might be possible to move ahead.

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